

The dangers of failing to declare income or lodge returns

There are many adverse consequences associated with failing to lodge income tax returns or omitting income from those returns if the ATO finds out.

The ATO has increasingly sophisticated technology to track such matters and catch people out – including “data matching” programs where it compulsorily obtains masses of information from certain authorities (eg, banks, insurance companies, real estate bond boards etc).

And on top of this, the ATO does not even have to actually look at the information too closely – as a computer program does this for the Commissioner.

So, it now seems that there is a bigger risk of being caught for failing to lodge returns or declare income (and for wrongly claimed deductions).

Moreover, if the ATO does catch you out for this and raises amended assessments or default assessments and you decide to challenge the assessments, then you may well face an uphill battle in doing so.

This is because in any matter before the tribunals or courts, the onus will be on you to not only prove that the assessments are wrong (ie, “excessive”), but also what the correct amount of taxable income should be.

And in many cases, this will be an almost insurmountable task – if only because you may no longer have the relevant records to prove your claim. (And for the record, there have been very few cases in recent, or less recent history, where a taxpayer has succeeded in this task.)



For example, in a recent case where the tribunal found that the ATO had been “careless” in the way it arrived at the amount of the alleged omitted income (even to the extent that it considered sending the assessments back to the ATO to redo), the tribunal still said it was “duty bound” to find that the taxpayer had failed in its onus of proving the assessment was excessive.

Furthermore, the Commissioner has the power to impose harsh penalties for failing to lodge returns or declare income – and again, the onus would be on you, the taxpayer, to show that the penalties are excessive and should be reduced or remitted.

Likewise, the ATO has the power to issue amended or default assessments many years after the income year in which they were due or income was omitted if it believes there has been “fraud or evasion” on your part – and, once again, the onus would be on you to prove otherwise!

So, the moral of this story is make an appointment with us to make sure you do not omit assessable income or fail to lodge a return – and, moreover, seek our advice to help tidy up any instances where you may have done so (unwittingly or otherwise). 💰

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